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Crl.OP(MD)No.21580, 22033, 22630, 21890 and 22808 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

**Crl.O.P.(MD).No.21580, 22033,
22630, 21890 and 22808 of 2025**

and

Crl.M.P.(MD)Nos.19546 and 19550, of 2025

Crl.O.P.(MD).No.21580 of 2025

Manuvel Mariya Selvam

... Petitioner/Sole Accused

Vs.

1. State of Tamil Nadu,
Rep. by its Inspector of Police,
Boothapandi Police Station,
Kanyakumari District.

.... Respondent

2. Nirmala

.... Respondent /Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to direct the District Munsif cum Judicial Magistrate, Boothapandy, to dispose the petition filed u/S.70(2) of Cr.P.C. on the same day to recall the non bailable warrant issued against the petitioner/accused in S.T.C.No.80 of 2021 on the file of the District Munsif cum Judicial Magistrate, Boothapandy.

For Petitioner : Mr.S.Sivakumar



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For R-1 : Mr.Thanga Aravindh.B
Government Advocate (Crl. Side)

Crl.O.P.(MD).No.22033 of 2025

Nirmala Goldwin ... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by Inspector of Police,
Rajakkamangalam Police Station,
Kanyakumari District.

2. Philama Antony Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to direct the Judicial Magistrate/Fast Track Court, Nagercoil, to consider the recall petition of the petitioner for NBW to be filed in C.C.No.1137 of 2012 on the file of the Judicial Magistrate/Fast Track Court, Nagercoil and to accept his surrender.

For Petitioner : Mr.H.Thayumanaswamy

For R-1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. Side)

Crl.O.P.(MD).Nos.22630 of 2025

M/s. Tej Ram Dharam Paul Pvt. Ltd.,
Rep. by its Managing Partner
Mr.Manmohan Kumar Puria ... Petitioners / Accused No. 2



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Vs.

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Food Safety Officer,
Code No. 24-470,
Cumbum Municipality and Union
and Gudalur Municipality,
Food Safety and Drug Administration Department,
Teni District.

.... Respondent / Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to recall the Non-Bailable Warrant dated 30.10.2025 issued in S.T.C.No.354 of 2025 on the file of the learned Judicial Magistrate Court, Uthamapalayam, Theni District, and direct the Trial Court to consider and dispose of the petitioner's recall.

For Petitioner : Mr.K.Jayabalan

For Respondent : Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)

Crl.O.P.(MD).Nos.21890 of 2025

Valsala Kumari ... Petitioner / Sole Accused

Vs.

1. The Inspector of Police,
District Crime Records Bureau (DCRB)
Special Team Police for Executing NBI
in N.I. Act Cases,
Kanyakumari District at Nagercoil.
(Investigation Officer)



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2. M/s. Sree Gogulam Chit & Finance Co. (P) Ltd.,
Regd Office at Chennai,
Represented by Authorized Agent,
A.Chockalingam,
S/o.Annamalai Pillai,
M/s.Sree Gokulam Chit & Finance
Co (P) Ltd.,
15/99, 1st floor, S.U.S.Building,
Palace Road, Thuckalay,
Kanyakumari District.

.... Respondent / Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to issue a direction to the Judicial Magistrate Court No.I, Kuzhithurai to recall the NBW (Non Bailable Warrant) issued in STC.No.171 of 2016.

For Petitioner : Mr.M.R.Sreenivasan

For R-1 : Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)

Crl.O.P.(MD).Nos.22808 of 2025

Dr.S.Sivasamy

... Petitioner / Accused

Vs.

State Represented by the
Drugs Inspector,
Pudukkottai Range in charge,
O/o. The Drugs Inspector,
1093, Kannadasan Salai,
Rajagopalapuram Post,
Pudukkottai – 622 003.

.... Respondent / Complainant



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Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to direct the learned Judicial Magistrate Avudaiyarkovil, Pudukkottai District to recall the warrant issued against the petitioner on 23.07.2024 in connection with the STC.No. 86/2024 on the file of the learned Judicial Magistrate, Avudaiyarkovil and considering the warrant recall petition filed by the petitioner under Section 72(2) BNSS on the same of day of its filing without physical presence of the petitioner.

For Petitioner : Mr.R.Sevugaraja

For Respondent : Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)

ORDER

Prologue:

The criminal justice system is a delicate balance between the authority of the State to enforce law and order and the constitutional obligation to protect individual liberty. While coercive processes such as warrants are indispensable tools to secure the presence of an accused and ensure progress of criminal proceedings, they are not intended to operate as punitive instruments divorced from procedural safeguards. At the same time, the unchecked invocation of the inherent jurisdiction of this Court to interdict every warrant issued by a trial court risks paralysing the trial process itself.



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2. The enactment of the Bharatiya Nagarik Suraksha Sanhita, 2023, reinforces a justice-oriented, victim-centric and citizen-responsive framework, while preserving the cardinal guarantee of a fair and speedy trial under Article 21 of the Constitution. Courts at all levels are therefore enjoined to ensure that criminal proceedings move forward expeditiously, without either trivialising liberty or undermining the authority of the learned Trial Court. It is against this constitutional and statutory backdrop that the present batch of petitions, all arising from the issuance of Non-Bailable Warrants, fall for consideration.

Crl.O.P.(MD) No.21580 of 2025:

3. Gist of the Case:

The petitioner, an accused in a prosecution under Section 138 of the Negotiable Instruments Act in S.T.C. No.80 of 2021, challenges the issuance of a Non-Bailable Warrant by the learned Trial Court. Her absence was attributed to a documented medical condition involving knee surgery and post-operative treatment. The warrant was issued following dismissal of her petition to condone absence, prompting apprehension of arrest.



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4. Relief Sought:

A direction to the learned District Munsif-cum-Judicial Magistrate, Boothapandi, to consider and dispose of the petitioner's application under Section 70(2) Cr.P.C., 1973, for recall of the NBW on the same day of filing, without insisting on personal appearance.

Crl.O.P.(MD) No.22630 of 2025:

5. Gist of the Case:

The petitioner, a Delhi-based tobacco manufacturing company arrayed as Accused No.2 under the Food Safety and Standards Act, 2006, challenges the issuance of a Non-Bailable Warrant in S.T.C. No.354 of 2025. The prosecution alleges that tobacco products were found in a shop in Tamil Nadu and treated as "unsafe food". The petitioner contends that tobacco products are governed by COTPA, 2003, that there is no nexus between it and the alleged stock, and that the NBW was issued without recording satisfaction of abscondence and in violation of procedures governing execution outside the State.



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6. Relief Sought:

Recall of the NBW dated 30.10.2025, a direction to consider the recall petition without insisting on surrender, permission to appear through counsel or video conference, dispensation of personal appearance, and stay of further proceedings.

Crl.O.P.(MD) No.22033 of 2025:

7. Gist of the Case:

The petitioner is an accused in a cheque dishonour case originally instituted in 2004 and later transferred and renumbered as C.C. No.1137 of 2012. She claims lack of knowledge of the transfer and non-receipt of summons, resulting in issuance of an NBW on 24.09.2025. The petitioner disputes the transaction and cites serious medical ailments.

8. Relief Sought:

A direction to the learned Trial Court to consider the petitioner's surrender and recall petition for the NBW on the same day and pass appropriate orders.



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Crl.O.P.(MD) No.22808 of 2025:

9. Gist of the Case:

The petitioner, an elderly medical practitioner aged over 75 years, faces prosecution under the Drugs and Cosmetics Act arising from an inspection in 2011. Though his personal appearance had earlier been dispensed with, the case remained dormant for over a decade. Upon transfer and renumbering in 2024, an NBW was issued allegedly without proper service of summons.

10. Relief Sought:

Recall of the NBW dated 23.07.2024 and a direction to consider the petitioner's application under Section 72(2) BNSS, 2023, on the same day, without insisting on personal appearance.

Crl.O.P.(MD) No.21890 of 2025:

11. Gist of the Case:

The petitioner, a 60-year-old senior citizen, is an accused in S.T.C. No.171 of 2016 on the file of the Judicial Magistrate Court (earlier Padmanabhapuram, later transferred to Judicial Magistrate Court No.I, Kuzhithurai) for an offence under Section 138 of the



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Negotiable Instruments Act. The prosecution arises out of a chit transaction with the second respondent chit company, wherein a blank cheque allegedly obtained as security was later misused to file the cheque dishonour complaint.

12. During the pendency of an earlier quash petition, this Court had dispensed with the petitioner's personal appearance, except when specifically insisted upon by the trial Court. After dismissal of the quash petition, the petitioner engaged counsel and was under the bona fide impression that her case was being properly followed. Subsequently, due to transfer of the case and non-appearance allegedly without her knowledge, a bailable warrant was issued and later converted into a non-bailable warrant. The petitioner contends that her absence was neither wilful nor deliberate but was caused by the failure of her erstwhile counsel to inform her about the proceedings and the issuance of the bailable warrant. Apprehending arrest pursuant to the non-bailable warrant, and citing her age and medical ailments, she has approached this Court.



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13. Relief Sought:

The petitioner seeks a direction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to the learned Judicial Magistrate Court No.I, Kuzhithurai, to recall the Non-Bailable Warrant issued against her in S.T.C. No.171 of 2016, and to pass such further or other orders as may be necessary to secure the ends of justice.

Submissions:

14. The learned counsels for the petitioners relying upon the judgment of this court in Crl.O.P.No.6472 of 2025 dated 07.03.2025, Crl.O.P.No.4514 of 2016 dated 02.03.2016 and similar orders, submitted that, this Court has appreciated similar cases and had allowed the same by directing the petitioner to appear before the learned Trial Court and file a petition under section 72(2) of BNSS, 2023, to recall NBW already issued against him and on filing the same the learned Trial Court has further been directed to consider the same on its own merits in accordance with law on the same day, making it clear that the disposal of the case in that manner by this Court does not amount to consider the recall petition favourably.



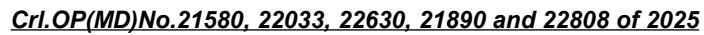
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Citing the same, the learned counsel for the petitioner sought for a similar order seeking disposition of the case in a similar manner.

15. Per contra the learned Government Advocate categorically contended that this Court cannot invoke section 482/528 Cr.P.C., 1973 /BNSS, 2023, in warrant recall matters and insisted that the petitioner's remedy lies with the learned Trial Court and on rejection by the learned Trial Court, before revision jurisdiction either before the Sessions Court or this Court. He further submitted that this matter is already settled by this Court by Hon'ble Justice Janarthanam, J. in ***P.A. Saleem and others v. State and another***¹ and pointed out that the said case was not brought to the attention of this Court, during disposal of Crl.O.P.No.6472 of 2025 dated 07.03.2025, Crl.O.P.No.4514 of 2016 dated 02.03.2016 and similar orders, by this Court and pressed for dismissal of the cases.

16. Heard the learned counsels on either side and carefully perused the materials available on record.

¹ 1994 SCC OnLine Mad 860



17. Whether this Court can, in exercise of its inherent jurisdiction under Section 482 Cr.P.C., 1973 / Section 528 BNSS, 2023, directly interfere with or recall Non-Bailable Warrants issued by the learned Trial Courts, or issue directions dispensing with personal appearance, in the teeth of the statutory remedy available before the very Court which issued the warrant, and in light of the law laid down in ***P.A. Saleem and others v. State and another***².

18. The legal position governing recall of warrants is no longer *res integra*. A Division Bench of this Court in ***P.A. Saleem and others v. State and another***³ has authoritatively examined the scheme of the Code of Criminal Procedure relating to issuance, execution and cancellation of warrants. The Court has categorically held that a warrant issued under Section 70 Cr.P.C., 1973, remains in force until it is executed or cancelled by the Court which issued it, and that the proper and primary remedy of an aggrieved accused is

3 Supra 1



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to approach that very Court with an application for cancellation or recall.

19. The judgment further clarifies that a refusal to cancel a warrant constitutes a final order amenable to revision under Sections 397 or 401 Cr.P.C., 1973, and that the inherent jurisdiction under Section 482 Cr.P.C., 1973, cannot be invoked for a simpliciter recall of a warrant. The inherent power is not a substitute for statutory remedies, nor can it be employed to short-circuit the procedural hierarchy envisaged by law.

20. At the same time, ***P.A. Saleem and others v. State and another***⁴ emphasises that the learned Trial Courts must act with promptitude and sensitivity. An accused who voluntarily appears and seeks recall of a warrant is not to be mechanically remanded. Rather, the application must be considered forthwith and orders passed without delay. This approach strikes a constitutionally permissible balance between individual liberty and the collective interest in the expeditious administration of criminal justice.

⁴ Supra 1



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21. The new criminal laws, including the Bharatiya Nagarik Suraksha Sanhita, 2023, reiterate the commitment to a justice-oriented, victim-centric and citizen-responsive system. Speedy disposal of criminal cases is not merely an administrative objective but a constitutional mandate flowing from Article 21. Endless interlocutory interventions, particularly in matters relating to warrants, have the potential to derail trials, frustrate victims, and erode public confidence in the justice delivery system.

22. In the present batch of cases, the grievances raised by the petitioners whether founded on medical grounds, alleged lack of service, jurisdictional objections, or age and infirmity, are all matters that can and must be placed before the respective learned Trial Courts in applications for recall of warrants. The statutory framework expressly empowers those Courts to consider such applications and to pass appropriate orders. If such orders are adverse, the law provides for revisional scrutiny.

23. Entertaining these petitions under the inherent jurisdiction of this Court, at this stage, would amount to bypassing the statutory



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remedies and would run contrary to the binding dictum in ***P.A. Saleem and others v. State and another***⁵. This Court is therefore constrained to hold that the present Criminal Original Petitions are not maintainable for the reliefs sought.

24. Accordingly, all the Criminal Original Petitions are disposed of, in view of the law laid down in ***P.A. Saleem and others v. State and another***⁶.

(a). The petitioners are directed to approach the respective learned Trial Courts by filing appropriate applications under Section 70(2) Cr.P.C., 1973 / Section 72(2) BNSS, 2023, as the case may be, seeking recall or cancellation of the Non-Bailable Warrants.

(b). Upon such applications being filed, the concerned Trial Courts shall consider and dispose of the same expeditiously, preferably on the same day, in accordance with law, without adopting a mechanical or punitive approach.

⁵ Supra 1

⁶ Supra 1



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(c). If any adverse order is passed, it shall be open to the aggrieved petitioners to avail the revisional remedies provided under law.

25. The learned Trial Courts are also reminded of the necessity to ensure speedy disposal of criminal cases, in keeping with the mandate of Article 21 and the objectives of the new criminal justice framework. Consequently, all connected miscellaneous petitions are closed.

02.01.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml

To

- 1.The District Munsif cum Judicial Magistrate, Boothapandy.
- 2.The Judicial Magistrate/
Fast Track Court, Nagercoil.
- 3.The Judicial Magistrate Court,
Uthamapalayam, Theni District.
- 4.The Judicial Magistrate Court No.I,
Kuzhithurai.



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- 5.The Judicial Magistrate,
Avudaiyarkovil, Pudukkottai District.
- 6.The Inspector of Police,
Boothapandi Police Station,
Kanyakumari District.
- 7.The Inspector of Police,
Rajakkamangalam Police Station,
Kanyakumari District.
- 8.The Food Safety Officer,
Code No. 24-470,
Cumbum Municipality and Union
and Gudalur Municipality,
Food Safety and Drug Administration Department,
Teni District.
- 9.The Inspector of Police,
District Crime Records Bureau (DCRB)
Special Team Police for Executing NBI
in N.I. Act Cases,
Kanyakumari District at Nagercoil.
- 10.The Drugs Inspector,
Pudukkottai Range in charge,
O/o. The Drugs Inspector,
1093, Kannadasan Salai,
Rajagopalapuram Post,
Pudukkottai – 622 003.
- 11.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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